

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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CLERK, US BANKRUPTCY COURT
EASTERN DISTRICT
ST. LOUIS, MISSOURI

In re:)	Judge Charles E. Rendlen III
EVETTE NICOLE REED,	)	Chapter 7
Debtor.	)	Main Cause # 14-45773
	)	Case No. 14-44818-705
)	
In re:)	
PAULINE A. BRADY,)	
Debtor.	)	Case No. 14-44909-705
)	
In re:)	
LAWANDA LANAE LONG,)	
Debtor.	)	Case No. 14-45773-705
)	
In re:)	
MARSHALL LOUIS BEARD,)	
Debtor.	)	Case No. 14-42751-705
)	
In re:)	
DARRELL MOORE and)	
JOCELYN ANTOINETTE MOORE,)	
Debtors.	)	Case No. 14-44434-705
)	
In re:)	
NINA LYNNE LOGAN,)	
Debtor.	)	Case No. 14-44329-705
)	
In re:)	
JOVON NEOSHA STEWART,)	
Debtor.	)	Case No. 14-43912-705
)	
In re:)	
ANGELIQUE RENEE SHIELDS,)	
Debtor.	)	Case No. 14-43914-705
)	

**RESPONDENT, ATTORNEY JAMES C. ROBINSON, MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISTION**

Respondent, Attorney James C. Robinson, pursuant to the Federal Rules of Civil Procedure, hereby moves to dismiss all claims in this case for lack of subject matter jurisdiction under Federal Rules of Civil Procedure, 12 (b) (1) and 12 (h) (3) . In support of his motion, Respondent respectfully, submit the following memorandum of points and authorities.

INTRODUCTION

On November 26, 2014 the Court, on its own initiative, issued a Show Cause Order in the Main Cause Number 14-45773, Document # 18, directing (1) James Robinson to show cause as to why his fees should not be disgorged under § 329(b) and (2) the chapter 7 Trustees to provide information related to fees again on December 2, 2014, Document # 17, and the Court issued a Show Cause Orders in this matter to disgorge fees and seeking information related to those fees by the U. S. Trustees.

On December 10, 2014 (Case Number 14-45773, Document #26) Respondent filed a petition for Removal of Judge in this matter; which was denied on December 11, 2014 in Document #27). On December 10, 2014 (Document #28), the Judge in this matter issued an additional Show Cause Order for Trustees to Collect unearned fees and why monetary and non-monetary sanctions, for fees returned as unlawfully held.

Show Cause Orders, dated November 26, 2014, December 2, 2014 and December 10, 2014, initiated by this Court, are invalid and void of enforcement as moot. In that Respondent On December 6, 2014 returned all fees in full to Debtors under protest to avoid litigation. This was communicated to each debtor present and to their attorney (Mr. Briggs).

The Debtors In re: Reed, Brady, Beard, Logan, Stewart and Shields were personally given their attorney fees, by Respondent in the presence of their attorney (Mr. Briggs). Due to the fact that Debtors In re: Long and joint Debtor's Moore did not appear the attorney fee was hand delivered to their attorney Mr. Briggs, all funds were returned in the form of a money order from Respondent. (Exhibits 1-8) All fees, although in dispute, were paid to Debtors in a timely manner, to avoid monetary and/or non-monetary sanctions.

FACTS

On June 10, 2014, Attorney James C. Robinson, was suspended by this Court from the privilege of practicing before the U.S. Bankruptcy Court for the Eastern District of Missouri Memorandum and Order (as amended) entered in *In re Latoya Steward*, Case No. 13-46399-705. Currently, the suspension remains while an appeal is pending. Mr. Briggs on June 25, 2014, was ordered to file an affidavit, in Court, to the amount of fees refunded by Mr. Robinson to each Debtor. The June 25, 2014 Order to Mr. Briggs to request Mr. Robinson to remit attorney fees, was ordered without a hearing on whether or not Mr. Robinson had owed any attorney fees that were due.

Respondent (Mr. Robinson) in response to the invalid Order, dated June 25, 2014, stated to Mr. Briggs, he did not owe any fees. They were all earned.

On November 26, 2014 the Court, on its own initiative, issued a Show Cause Order in the Main Cause Number 14-45773, Document # 18, again on December 2, 2014, Document # 17, and the Court issued Show Cause Orders in this matter to disgorge fees and seeking information related to those fees by the U. S. Trustees.

On December 10, 2014 (Case Number 14-45773, Document #26) Respondent filed a petition for Removal of Judge in this matter; which was denied on December 11, 2014 in Document #27). On December 10, 2014 (Document #28), the Judge in this matter issued an additional Show Cause Order for Trustees to Collect unearned fees and why monetary and non-monetary sanctions, for fees returned as unlawfully held.

LEGAL STANDARD

Article III of the Constitution permits federal courts to adjudicate only actual cases or controversies. *Louis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990). This means litigants must suffer, or be threatened with, an actual injury traceable to the defendant's actions, and that the federal court must be able to grant effectual relief. *See id.* This case-or-controversy requirement must be satisfied at every stage of judicial proceedings. *Id.* If it is not, the federal court lacks the power to adjudicate the case and must dismiss for lack of subject matter jurisdiction. *E.g., Home Builders Ass'n of Miss., Inc. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998). Respondent has returned all the fees as directed to avoid litigation eliminating any live case or controversy.

The Constitution confines the judicial power to actual cases or controversies. *See* U.S. Const. art. III § 2. The Supreme Court has explained that the "triad of injury in fact, causation, and redress ability constitutes the core of Article III's case-or-controversy requirement." A case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *City of Erie v. Pap's A.M.*, 529 U.S. 277, 287 (2000) (quoting *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979).

CONCLUSION

For the reasons stated above, the case should be dismissed for lack of subject matter jurisdiction.

Respectfully submitted,

/s/ James C. Robinson 

James C. Robinson #30969
Attorney at Law
3919 Washington Ave.
St. Louis Mo. 63108
Cell # (314) 922- 7451
Office (314) 533-4357
Fax (314) 533-4356

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via first class, United States mail, postage paid and/or electronic notice on January 12th, 2015 to:

STEWART, MITTLEMAN, HEGGIE &
HENRY

By: /s/ Seth A. Albin
Seth A. Albin – EDMO #46483MO
222 South Central Avenue, Suite 501
St. Louis, Missouri 63105
Phone: (314) 863-8484
Fax: (314) 863-5312
E-mail: albintrustee@smhhlaw.com
Chapter 7 Trustee for Debtor Evette Nicole Reed

SUMMERS COMPTON WELLS LLC

By: /s/ David A. Sosne
David A. Sosne – EDMO #28365MO
8909 Ladue Road
St. Louis, Missouri 63124
Phone: (314) 991-4999
Fax: (314) 991-2413
E-mail: dsosne@scwh.com
Chapter 7 Trustee for Debtors Lawanda Lanae Long, Jovon Neosha Stewart, and Angelique Renee Shields

CONWELL LAW FIRM LLC

By: /s/ Kristin J. Conwell
Kristin J. Conwell – EDMO #58735MO
P.O. Box 56550
St. Louis, Missouri 63156
Phone: (314) 652-1120
Fax: (314) 802-7822
E-mail: kconwell@conwelllawfirm.com
Chapter 7 Trustee for Debtors Darrell Moore And Jocelyn Antoinette Moore

STONE, LEYTON & GERSHMAN
A Professional Corporation

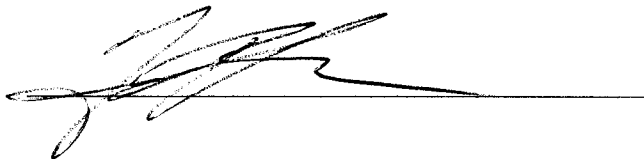
By: /s/ E. Rebecca Case
E. Rebecca Case – EDMO #38010MO
7733 Forsyth Boulevard, Suite 500
St. Louis, Missouri 63105
Phone: (314) 721-7011
Fax: (314) 721-8660
chapter7trustee@stoneleyton.com
Chapter 7 Trustee for Debtor Pauline A. Brady

BLACKWELL AND ASSOCIATES

By: /s/ Robert J. Blackwell
Robert J. Blackwell – EDMO #23179MO
P.O. Box 310
O'Fallon, Missouri 63366-0310
Phone: (636) 240-3632
Fax: (636) 240-6803
E-mail: rblackwell@blackwell-lawfirm.com
Chapter 7 Trustee for Debtor Marshall Louis Beard

O'LOUGHLIN, O'LOUGHLIN et al

By: /s/ Tom K. O'Loughlin
Tom K. O'Loughlin – EDMO #24611MO
1736 N. Kingshighway
Cape Girardeau, Missouri 63701
Phone: (573) 334-9104
Fax: (573) 344-5256
E-mail: tomo@oloughlinlawfirm.com
Chapter 7 Trustee for Debtor Nina Lynne Logan



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via first class, United States mail, postage paid and/or electronic notice on January ____, 2015 to:

- | | | |
|-----|---|--------|
| 1. | Ross H. Briggs
Post Office Box 58628
St. Louis, Missouri 63158 | |
| 2. | Critique Legal Services
3919 Washington Boulevard
St. Louis, Missouri 63108 | |
| 3. | Office of the United States Trustee
Thomas F. Eagleton Courthouse
111 South Tenth Street, Suite 6353
St. Louis, Missouri 63102 | |
| 4. | Evette Nicole Reed
2816 Burd Avenue
St. Louis, Missouri 63120 | Debtor |
| 5. | Pauline A. Brady
1732 Delrosa Way
St. Louis, Missouri 63138 | Debtor |
| 6. | Lawanda Lanae Long
2136 E. Alice, 1 st Floor
St. Louis, Missouri 63107 | Debtor |
| 7. | Marshall Louis Beard
224 Country Shire Drive
St. Louis, Missouri 63367 | Debtor |
| 8. | Darrell Moore
230 N. Schlueter Avenue
St. Louis, Missouri 63135 | Debtor |
| 9. | Jocelyn Antoinette Moore
230 N. Schlueter Avenue
St. Louis, Missouri 63135 | Debtor |
| 10. | Nina Lynne Logan
308 Chalmette Drive
Hazelwood, Missouri 63042 | Debtor |
| 11. | Jovon Neosha Stewart
4335 Norfolk
St. Louis, Missouri 63110 | Debtor |





PERSONAL MONEY ORDER

No. 8394050215

93-38
929

DATE: DECEMBER 06, 201

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:

Eretta Reed

\$ 299.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

13919 Washington

⑈8394050215⑈ ⑆092900383⑆ 150080235479⑈

Exhibit 1

K



PERSONAL MONEY ORDER

No. 8394050216

DATE: DECEMBER 06, 2014

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:

Pauline Brady

\$ 299.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

3919 Washington

⑈8394050216⑈ ⑆092900383⑆ 150080235479⑈

Exhibit 2

[Signature]



PERSONAL MONEY ORDER

No. 8394050217

92-38
929

DATE: DECEMBER 06, 201

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:

Nina Logan

\$ 299.00

VOID IN EXCESS OF \$1000.00

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

NAME

James Robinson

ADDRESS

13919 Washington

⑈8394050217⑈ ⑆092900383⑆ 150080235479⑈

Exhibit 3
✓



PERSONAL MONEY ORDER

No. 8394050219

93-38
929

DATE: DECEMBER 06, 2014

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:

Marshall Beard

\$ 299.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

3919 Washington

⑈8394050219⑈ ⑆092900383⑆ 150080235479⑈

Exhibit

4

[Handwritten signature]



PERSONAL MONEY ORDER

No. 8394050220

DATE: DECEMBER 06, 2014

THREE HUNDRED FORTY NINE DOLLARS AND 00 CENTS

Pay to the
order of:

Darrell Mookie & Jocelyn Mookie

\$ 349.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, You agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

3919 Washington

⑈8394050220⑈ ⑆092900383⑆ 150080235479⑈

Exhibit

5



PERSONAL MONEY ORDER

No. 8394050228

DATE: DECEMBER 08, 2011

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:

Lewanda Long

\$ 299.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

3919 Washington

⑈8394050228⑈ ⑆092900383⑆ 150080235479⑈

Exhibit 6
[Signature]



PERSONAL MONEY ORDER

No. 8394050214

93-38
929

DATE: DECEMBER 06, 2014

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:Jaron Stewart

\$ 299.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

3919 Washington

⑈8394050214⑈ ⑆092900383⑆ 150080235479⑈

Exhibit 7



PERSONAL MONEY ORDER

No. 8394050218

94-38
929

DATE: DECEMBER 06, 2014

TWO HUNDRED NINETY NINE DOLLARS AND 00 CENTS

Pay to the
order of:*Angelique Shields*

\$ 299.00

VOID IN EXCESS OF \$1000.00

Purchaser, by signing, you agree to the service charge and other terms on the reverse side.

Location: 8394 Lindell Boulevard

U.S. Bank National Association
Minneapolis, MN 55480

NAME

James Robinson

ADDRESS

3919 Washington

⑈8394050218⑈ ⑆092900383⑆ 150080235479⑈

Exhibit 8
[Signature]